

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RENE GEOVANY ALFARO,
Petitioner,

v.

WARDEN CALVIN JOHNSON, et al.,
Respondents.

Case No. 2:21-cv-01831-RFB-DJA

ORDER

In this reopened habeas action, the Court appointed counsel to represent Petitioner Rene Geovany Alfaro (ECF No. 26). Counsel have appeared for the parties (ECF Nos. 27–29).

IT IS THEREFORE ORDERED:

1. The Federal Public Defender, through Dawn Penn, Esq., and Amelia Bizzaro, Esq., is appointed as counsel for Petitioner Rene Geovany Alfaro under 18 U.S.C. § 3006A(a)(2)(B). Counsel will represent Petitioner in all federal proceedings related to this matter, including any appeals or certiorari proceedings, unless allowed to withdraw.
2. If necessary, Petitioner must file an amended petition for writ of habeas corpus within 60 days after entry of this Order. See ECF No. 16. The amended petition must specifically state whether each ground for relief has been exhausted in state court; for each claim that has been exhausted in state court, the amended petition must state how, when, and where that occurred. If Petitioner determines that an amended petition need not be filed, then, within 60 days after entry of this Order, Petitioner must file a notice to that effect.
3. Respondents will have 60 days following the filing of the amended petition to file an answer or other response to the amended petition. If Petitioner does not file an amended petition, Respondents will have 60 days following the due date for an amended petition to file an answer or other response to the operative petition.

- 1 4. Petitioner will have 45 days following the filing of an answer to file a reply. Respondents
2 will thereafter have 30 days following the filing of a reply to file a response to the reply.
- 3 5. Local Rule LR 7-2(b) governs the response and reply time to any motion filed by either
4 party, including motions filed in lieu of a pleading.
- 5 6. Respondents must raise all procedural defenses, including exhaustion, in a single,
6 consolidated motion to dismiss. Successive motions to dismiss will not be entertained, and
7 any procedural defenses omitted from the consolidated motion to dismiss will be waived.
8 Respondents may not file a response that consolidates their procedural defenses, if any,
9 with their response on the merits. If Respondents seek dismissal of unexhausted claims
10 under 28 U.S.C. § 2254(b)(2) they must: (1) do so in a single motion to dismiss, not in the
11 answer; and (2) specifically direct their argument to the standard for dismissal under §
12 2254(b)(2) as set forth in Cassett v. Stewart, 406 F.3d 614, 623–24 (9th Cir. 2005).
- 13 7. In any answer filed on the merits, Respondents must specifically cite to and address the
14 applicable state court written decision and state court record materials, if any, regarding
15 each claim within the response as to that claim.
- 16 8. If Petitioner wishes to move for leave to conduct discovery, Petitioner must file such
17 motion concurrently with, but separate from, the response to Respondents’ motion to
18 dismiss or the reply to Respondents’ answer. Any motion for leave to conduct discovery
19 filed by Petitioner before that time may be considered premature, and may be denied,
20 without prejudice, on that basis. Respondents must file a response to any such motion
21 concurrently with, but separate from, their reply in support of their motion to dismiss or
22 their response to Petitioner’s reply.
- 23 9. If Petitioner wishes to request an evidentiary hearing, Petitioner must file a motion for an
24 evidentiary hearing concurrently with, but separate from, the response to Respondents’
25 motion to dismiss or the reply to Respondents’ answer. Any request for an evidentiary
26 hearing filed by Petitioner before that time may be considered premature, and may be
27 denied, without prejudice, on that basis. The motion for an evidentiary hearing must
28 specifically address why an evidentiary hearing is required and must meet the requirements

1 of 28 U.S.C. § 2254(e). The motion must state whether an evidentiary hearing was held in
2 state court, and, if so, state where the transcript is located in the record. If Petitioner files a
3 motion for an evidentiary hearing, Respondents must file a response to that motion
4 concurrently with, but separate from, their reply in support of their motion to dismiss or
5 their response to Petitioner's reply.

6 10. Respondents must file the state court exhibits relevant to their response in chronological
7 order.

8 11. All state court records and related exhibits must be filed in accordance with LR IA 10-3
9 and LR IC 2-2 and include a separate index identifying each exhibit by number or letter.
10 The index must be filed in CM/ECF's document upload screen as the base document to
11 receive the base docket number (e.g., ECF No. 10). Each exhibit must then be filed as
12 "attachments" to the base document to receive a sequenced sub-docket number (e.g.,
13 Exhibit 1 (ECF No. 10-1), Exhibit 2 (ECF No. 10-2), Exhibit 3 (ECF No. 10-3), and so
14 forth). If the exhibits will span more than one filing, the base document in each successive
15 filing must be either a copy of the index or volume cover page. See LR IC 2-2(a)(3)(A).
16 The purpose of these requirements is to ensure the Court and reviewing courts may
17 determine the location of exhibits from the face of the electronic docket sheet.

18 12. Notwithstanding LR IC 2-2(g), paper copies of any electronically filed exhibits need not
19 be provided to chambers or to the staff attorney, unless later directed by the Court.
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21 **DATED:** March 11, 2025



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23 **RICHARD F. BOULWARE, II**
24 **UNITED STATES DISTRICT JUDGE**
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